properly appointed, the successor to its assets and claims, it requires only the recognition, through comity, of the state's enactment to accord the receiver a right to sue in the foreign court apart from his position as the officer of the home tribunal. *Howarth* v. *Angle* (1900) 162 N. Y. 179, 186; *Relfe* v. *Rundle* (1880) 103 U. S. 222. Merely as a court officer, a receiver can be accepted only so far as the appointing court has given him authority. *Corey* v. *Long* (N. Y. 1872) 43 How. Pr. 492, 500; *Battle* v. *Davis* (1872) 66 N. C. 252. And since such court can give him valid authority to sue only within its own state, the position of the United States courts can scarcely be deemed unsupportable in theory. Yet it is settled that the acts of a state in creating corporations or enacting laws may be recognized by comity, though both are as much without authority beyond the jurisdiction. *Bank of Augusta* v. *Earle* (1839) 13 Pet. 519; *Blanchard* v. *Russel* (1816) 13 Mass. 1. The broader view of the state courts, therefore, seems preferable, especially in view of the expediency of simplifying the administration of insolvent estates.

LIMITATIONS IN TRIAL OF EXTRADITION AND INTERSTATE RENDITION PRISONERS.—The decision of *United States* v. *Rauscher* (1886) 119 U. S. 407, that a prisoner brought within the jurisdiction of a court by virtue of an extradition treaty may not be tried for an offence other than the extradition offence, set at rest the long disputed question as to limitations in trial of the prisoner. 1 Moore, Extradition and Interstate Rendition §§ 150–166. The case is based upon what seems to be the correct theory of the so-called right of asylum, that this right is not the right of the prisoner to have an asylum in the nation to which he has fled, but it is the right of that nation to grant an asylum to the prisoner, which it may do or not as it chooses. See *Ker* v. *Illinois* (1886) 119 U. S. 436. The right of a nation to grant such asylum having become established in the early times is now recognized as an absolute one, 1 Moore, Extradition and Interstate Rendition § 5; so that, in the absence of a treaty, a nation is under no duty whatsoever to surrender a prisoner taking refuge within its boundaries. Wheaton, International Law (8th Ed.) § 115, n. 73; *Short* v. *Deacon* (Pa. 1823) 10 S. & R. 125; *Commonwealth* v. *Hawes* (1878) 76 Ky. (13 Bush) 697. These principles lead inevitably to the conclusions reached in *United States* v. *Rauscher*, supra: that a treaty granting extradition rights being in derogation of a nation's right to grant asylum must be strictly construed; that extradition can be demanded as a right only for the crimes enumerated in the treaty; and that, when surrendered by the nation of asylum, the prisoner is surrendered for but a single purpose, that is, to be tried for the crime named in the requisition. Hence the prisoner may not be tried for other than the extradition crime until he has had a reasonable time to return to the surrendering nation. See 1 Moore, Extradition and Interstate Rendition § 165. To hold otherwise would be a breach of honor and good faith with the contracting nation and in total disregard of the rights of the accused as established by the treaty.

With regard to the question as to whether an extradition prisoner may be arrested upon civil process before having an opportunity to

return to the nation of asylum, it is held that the same reason that precludes arrest for other than the extradition crime, that is, that he is surrendered for but a single purpose, is applicable to arrest upon civil process. *In re Reinitz* (1889) 39 Fed. 204. This seems to be the correct and logical view.

The decisions as to limitations in trial of the extradition prisoner are carried one step further in a recent United States case which holds that a criminal who has been indicted for and convicted of one crime, and who then escapes from prison and takes refuge in a foreign country cannot be extradited upon a second indictment and then upon surrender be imprisoned under the former conviction. *In the matter of Browne* (U. S. Cir. Ct. 1906) 35 N. Y. L. Jour. No. 138. The case is an admirable one for the application of the principles of *United States* v. *Rauscher* and seems perfectly sound.

With regard to trial limitations in interstate rendition, there is considerable divergence in the cases, some jurisdictions holding that a prisoner may not be tried for an offence other than that for which he was surrendered, *Kansas* v. *Hall* (1888) 40 Kan. 338; *In the matter of Cannon* (1882) 47 Mich. 481, but the weight of authority holding that a prisoner who has been delivered upon requisition may be arrested and tried for other offences than the rendition offence. *People* v. *Cross* (1892) 135 N. Y. 536; *Lascelles* v. *Georgia* (1892) 148 U. S. 537. An examination of the cases refusing trial for other than the rendition offence shows that they are based upon a misapprehension of the fundamental distinctions between international extradition and interstate rendition. See 2 Moore, Extradition and Interstate Rendition § 644. Whereas between nations there is no duty to surrender a criminal except such as is specifically assumed under treaty, and then for trial on the rendition offence alone, *United States* v. *Rauscher*, supra; as between the states there is an absolute constitutional duty to surrender, on demand, a fugitive criminal charged with any crime whatsoever. Const. U. S. Art. IV, Sec. 2, cl. 2. So that the sovereignty of the states, so far as the right to grant asylum to criminals is concerned, is surrendered to and merged with that of the United States, and the states have absolutely no power to grant an asylum to fugitives from other states, after proper demand for their return has been made. *State* v. *Brown* (1884) 60 Wis. 587, 591. All of the United States have a common and united interest in the punishment of crime rather than the interest of individual sovereignties. *Ham* v. *State* (1878) 4 Tex. App. 645, 663–666. These are the fundamental principles which have led to exactly the opposite result in interstate rendition to that which has been reached in extradition, as regards limitations of trial. The surrendering state cannot be said to be delivering up the prisoner for a particular purpose, since, under its constitutional duty, it must surrender the prisoner for any crime; and it therefore simply apprehends the prisoner that he may be placed within the jurisdiction in which he is wanted. Once there he is subject to trial for any crime against the state. *Lascelles* v. *Georgia*, supra.

It is only a step further in this reasoning to hold that the prisoner surrendered upon an interstate requisition, may also be tried under civil process. There is some conflict of authority on this point. Cer-

tainly rendition should not be allowed to avail the plaintiff where it is merely a pretext to bring the defendant within the jurisdiction to secure civil process. *Underwood* v. *Fetter* (1848) 6 N. Y. Leg. Obs. 66. But this is on the principle, applied alike to all cases of fraud, that the abuse of court process will not be permitted. *Benninghoff* v. *Oswell* (1868) 37 How. Prac. 235; *Wanzer* v. *Bright* (1869) 52 Ill. 35, 40. It in no way indicates a limitation in regard to one demanded and rendered in good faith. Accordingly, a recent case holding that so long as the plaintiff acted in good faith in assisting in the rendition proceedings, he may subject the rendition prisoner to civil process, *Rutledge* v. *Krauss* (N. J. 1906) 63 Atl. 988, takes the only logical view. *Williams* v. *Bacon* (N. Y. 1834) 10 Wend. 636; contra, *Compton, Ault & Co.* v. *Wilder* (1883) 40 Ohio St. 130. The prisoner has been surrendered, not for a particular and limited purpose, but because it is the constitutional duty of the surrendering state to deliver him to the state whence he fled, and once there, he should be subject to criminal and civil process alike, just as any other person within the jurisdiction.

SPECIFIC PERFORMANCE OF PAROL PROMISE TO CONVEY AN INTEREST IN LAND.—Though there has been some controversy as to the theory upon which parol agreements coming within the Statute of Frauds are enforced in equity, *Britain* v. *Rossiter* (1879) 11 Q. B. D. 123, 131, 133, it seems now to be settled that in such cases equity acts primarily on that frequent basis of equity jurisdiction, namely, a fraud by which in reliance upon the agreement the plaintiff is induced to change his position in a way which will cause him injury unless the agreement is carried out. *Pierce's Heirs* v. *Catron's Heirs* (Va. 1873) 23 Gratt. 588, 598; *Keats* v. *Rector* (1839) 1 Ark. 391, 419; Pomeroy, Spec. Perf. §104; 2 Story, Eq. Jur. §761. The majority of jurisdictions professing to act under this doctrine have held the mere taking of possession under the agreement furnishes sufficient ground for the exercise of equitable jurisdiction. *Cooper* v. *Newton* (1900) 68 Ark. 150; *Van Epps* v. *Redfield* (1897) 69 Conn. 101; *Puterbaugh* v. *Puterbaugh* (1891) 131 Ind. 288; contra, *Burns* v. *Daggett* (1886) 141 Mass. 368; *Purcell* v. *Miner* (1866) 4 Wall. 513. This position seems to be the outgrowth of the early practice at a time when no consistent theory had been evolved. See *Lamas* v. *Bayly* (1708) 2 Vern. 627. In many of the older cases the chancery courts required merely that the parol agreement should be conclusively established and any act from which the existence of the contract was necessarily inferred, such as the payment of the purchase money, *Lacon* v. *Martins* (1743) 3 Atk. 1, or the taking of possession under the agreement, *Pyke* v. *Williams* (1703) 2 Vern. 455, was deemed sufficient. *Butcher* v. *Stapely* (1685) 1 Vern. 363; *Earl of Aylesford's Case* (1714) 2 Strange 783. Later, the courts, realizing with some exceptions, *Ungley* v. *Ungley* (1877) L. R. 5 Ch. D. 887, the insufficiency of this as a basis for the exercise of an extraordinary jurisdiction, adopted the more modern basis of fraud, inducing a change of position on the part of the plaintiff. *Bond* v. *Hopkins* (1802) 1 Sch. & Lef. 413, 433. Accordingly, they no longer grant relief where the only act has been the payment of purchase money.